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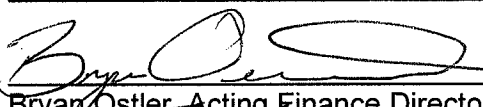
ST. VRAIN / TRI-AREA SANITATION DISTRICT ANNEXATION, ZONING, AND MINOR SUBDIVISION


Agenda Date: Town Board Meeting – January 26, 2010

Attachments:

- a. Letter of intent, Assessment, and criteria response
- b. Petition for annexation
- c. Draft Planning Commission Minutes from August 18, 2009
- d. PCR-2010-001A Approval of the Annexation and Zoning
- e. PCR-2010-002C Conditional Approval of the of the Minor Subdivision
- f. Resolution for approval of the Annexation
- g. Resolution for approval of the C-C Zoning
- h. Ordinance for approval of the Annexation and Zoning
- i. Resolution of approval for the Minor Subdivision
- j. Ordinance of approval for the Minor Subdivision
- k. Vicinity Map
- l. 11x17 drawing of the Annexation boundary
- m. 11x17 drawing of the Zoning Amendment
- n. 11x17 drawing of the Minor Subdivision

Fiscal Note: None noted


Bryan Ostler, Acting Finance Director

Submitted by: 
Todd C. Tucker, AICP ASLA Staff Planner

Approved for Presentation: 
Derek C. Todd, Town Administrator

AV Use Anticipated Projector _Y_ Laptop _N_

Certification of Board Approval:

Nanette Fornof, Town Clerk Date _____

SUMMARY STATEMENT: Saint Vrain Sanitation has requested consideration of the proposed annexation of a 1.02 acre parcel of orphaned land that is part of the 26.03 acre former Tri-Area Sanitation District waste water treatment facility located along Colorado Boulevard and east of Milavec Lake. The application also includes a zoning change from Public to Community Commercial and a Minor Subdivision Plat creating two parcels within the former Tri-Area Sanitation District property.

The Sufficiency hearing was held on December 8, 2009. The Planning Commission considered the request on January 5, 2010. Staff and the Planning Commission find that the proposed Annexation, Zoning, and Minor Subdivision can meet the requirements of the Code. The conditions recommended by staff and the Planning Commission have been addressed in the revised subdivision amendment (see attachment M). The application, as presented to the Board of Trustees meets with the requirements for approval.

DETAIL OF ISSUE/REQUEST:

Applicant: Eric Doering, Manager, St. Vrain Sanitation
Rob Fleck, District Engineering / Project Manager
Agent: Suzette L. Schaff, P.E., CDS Engineering Corporation

Zoning / Surrounding Land Uses: The former Tri-Area Sanitation waste water treatment site encompasses about 26 acres in the west half of Section 19, T2N, R67W. The site is bounded on the west by Colorado Boulevard and Frederick Recreation Area in the Frederick municipal boundary. The remaining sides are bounded by the Town of Firestone, including Saddleback Golf Course, and a commercial development including Dairy Queen and Ace Hardware.

North	Undeveloped, zoned Planned Unit Development with the Residential C and Residential B (PUD R-C & PUD R-B), Town of Firestone
South	Developed, zoned Planned Unit Development Neighborhood Center (PUD NC), Town of Firestone, see also note below
East	Developed, zoned Planned Unit Development for Open Space (PUD OS), Town of Firestone
West	Developed, zoned Public, Town of Frederick

Note: Within the Town of Firestone, the Safeway development has a Final Development Plan with underlying zoning of C-2 and C-M (commercial, industrial uses) but uses are restricted to those under current zoning that are functionally comparable to those in the PUD-NC zoning district.

Referral: The application was referred per the provisions of the Land Use Code to the applicable referral agencies, departments, and interests including, Weld County, Town of Firestone, Saint Vrain Sanitation District, Carbon Valley Recreation District, Northern Colorado Water Conservancy, Colorado Department of Transportation, Saint Vrain Valley School District, Colorado Geological Survey, Town Attorney, Town Engineer, mineral interests, and ditch interests. All referral responses are on file with the Planning Department and have been incorporated into the report as applicable.

No referral comments indicated opposition to the request. However, of note, the Firestone Planning Department questioned how access was to be achieved and the Colorado Geological Survey expressed concerns for mining that occurred in the proximity to the site. Both of these items have been addressed with plat notes and as noted in the analysis below.

Neighborhood Meeting: A neighborhood meeting was held on May 18, 2009 with one neighbor, Scott Banzhaf, in attendance. Mr. Banzhaf inquired about future access to the property. Rob and Eric

informed him that SVSD is subdividing the property and will sell it. The new developer would decide where the accesses would be located.

No other neighbors attended the meeting.

Public Notice: The public meeting was noticed in accordance with the provisions of the Land Use Code.

Review Criteria: Article 13.2 of the Land Use Code establishes the criteria for annexations while Section 4.7.2.d establishes the criteria for Zoning Amendments and Section 4.9.3.a. and c (see also Section 4.7.4) establishes the criteria for Minor Subdivisions as follows:

Criteria for Annexation: Sec. 13.2 General provisions

1. **Annexation of lands to the Town shall be in accordance with this Code and the laws of the State in effect at the time of annexation and which may be amended from time to time, including but not limited to requests for zoning as provided for in Sections 3.2.4, 4.7.2, and 13.3 of the Land Use Code as well as the processes further described in Article 4 of this Code and other Sections as applicable.**
2. **The Board of Trustees may consider annexation of any land that satisfies the eligibility requirements of the statutes of the State as follows:**
 - a. **The area proposed for annexation has not less than one-sixth of its perimeter contiguous with the municipal boundaries;**
 - b. **A community of interest exists between the area proposed for annexation and the Town; the area is urban or will be urbanized in the near future; and said area is integrated with or is capable of being integrated with the annexing municipality.**
 - c. **The proposed annexation furthers the intent of the Comprehensive Plan.**
3. **If the Board of Trustees determines to proceed with annexation of property, the Board shall make such determination by resolution which shall include the public hearing date.**
4. **Except as otherwise provided, the full width of all public rights-of-way adjacent to a proposed annexation shall be included in the annexation.**

The application for annexation involves a 1.02 acre remnant of land that should have been annexed when the entire site was annexed in 1989 (located along the abandoned rail road rights-of-way).

The subject land area is in the Town's Planning area and is bounded on two sides by Frederick's municipal boundary including the existing Tri-Area annexation to the north and west of the subject site; and the land area meets the 1/6th contiguity requirement. In addition, the pattern of development will not interfere with emerging land use patterns, nor will it interfere with the provision of existing, planned, or previously committed to services. Furthermore, no additional right-of-way is required and the annexation furthers the intent of the comprehensive plan by adding lands within the planning area into the Town's jurisdiction, and brings the property into conformance with state law which precludes annexations from dividing parcels. Lastly, there is a community of interest that exists between the site and Town.

The application meets the requirements for annexation as proposed.

Section 4.7.2.d of the *Land Use Code* sets the review criteria for amendments to the official zoning map:

Review Criteria. For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:

- (1) To correct a manifest error in an ordinance establishing the zoning for a specific property;**
- (2) To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally;**
- (3) The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Comprehensive Plan;**
- (4) The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan;**
- (5) The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or**
- (6) A rezoning to Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.**

The applicants have requested to zone the 1.02 acre orphaned land area related to the annexation noted above, and also the entire former Tri-Area Sanitation waste water treatment site from its current zoning Public (P) to Community Commercial (C-C) totaling ±26 acres. The subject land area has been used as a waste water treatment facility for over 20 years. Over time, the surrounding properties have been annexed by the Town of Frederick and the Town of Firestone. Firestone has approved development of a golf course, and commercial uses adjacent to the site, including the Dairy Queen, Ace Hardware, Safeway, etc. adjacent to the site; while to the west of the site the Town of Frederick has developed the Bella Rosa Golf Course and is developing Milavec Lake into a regional recreation area.

Recently, the Tri-Area Sanitation District's waste water treatment responsibilities were subsumed into Saint Vrain Sanitation District and waste water treatment diverted to other facilities, resulting in closure of this site. While no development is contemplated at this time, the site is being reclaimed per state requirements for abandoned waste water treatment sites. This reclamation includes removal of any contaminated soils or materials, grading to fill and level the abandoned ponds, providing for sheet drainage across the site, and seeding to stabilize the site. This reclamation does not preclude future development or uses from occurring on the site.

The former Tri-Area Sanitation District waste water treatment function required containment, treatment, aeration, and other related activities to clarify the waste water and return it to the natural environment. Once treated, the waste water was released down stream for reuse by wildlife, farmers, or other consumption. Per the Town Code, Public facilities are permitted by right in all districts. While this is compatible with the neighboring uses, the property adjacent to the site has been designated for, and developed as commercial and open space / recreational uses. Therefore, designating the site for a commercial use would be consistent with neighboring development patterns and uses. Accordingly, the proposed Community Commercial (C-C) Zoning is consistent with criteria (2) due to changing conditions (i.e. closure of the waste water treatment facility and changes that have occurred to neighboring land uses); and criteria (5) as it is in the public interest to encourage development or redevelopment of the area upon closure of the water treatment facility.

The application meets with the requirements for zoning as proposed.

Criteria for Minor Subdivision: Sec. 4.9.3.a. and c and Section 4.7.4

Minor subdivision

- a. **Generally.** The minor subdivision process may be used in lieu of the preliminary and final plat processes (See 4.7.4 and Section 4.9.1 above) if the following conditions apply and the Planning Director determines that the subdivision is compatible with and will not have adverse impacts on surrounding properties:
- (1) **Ten (10) or fewer new lots or blocks are created;**
 - (2) **Variances or subdivision exceptions are not required or requested;**
 - (3) **There is no public right-of-way dedication required or requested; and**
 - (4) **The property for which the minor subdivision is requested was not the subject of a minor subdivision approval during the prior one (1) year.**

The application involves the creation of two parcels and there are no variances or subdivision exceptions required or requested. There are currently two points of entry to the site, one of the easements extends east from Colorado Boulevard then turns north to enter the site adjacent to the Dairy Queen Drive through while the second easement is an extension from North First Street in Firestone to the east leg of the site. While an access easement is being dedicated to Lots 1 and 2 along the eastern side of the proposed Plat, no public rights-of-way dedications are requested or required; and the subject property has not been subject to minor subdivision approval in the past. Should future proposed development require additional road rights-of-way, the developer will be required to secure the necessary access prior to development.

The application is consistent with these requirements (see also below).

- c. **Minor subdivision review criteria.** The Town shall use the following criteria to evaluate the Applicant's request:
- i. **A minor subdivision shall meet the review criteria applicable to preliminary plat stated in Section 4.7.4.**

See section 4.7.4.b below.

Section 4.7.4.b. Preliminary plat review criteria. The Town shall use the following criteria to evaluate the applicant's request:

- (1) **The preliminary plat represents a functional system of land use and is consistent with the rationale and criteria set forth in this Code and the Comprehensive Plan.**
- (2) **The application is consistent with the approved sketch plan and incorporates the Planning Commission's recommendations and conditions of approval.**
- (3) **The land use mix within the project conforms to the Town's *Zoning District Map* and *Comprehensive Land Use Map* and furthers the goals and policies of the Comprehensive Plan, including:**
 - (a) **The proposed development promotes the Town's small-town, rural character;**
 - (b) **Proposed residential development adds diversity to the Town's housing supply;**
 - (c) **Proposed commercial development will benefit the Town's economic base;**
 - (d) **Parks and open space are incorporated into the site design;**
 - (e) **The proposed project protects the Town's environmental quality; and**
 - (f) **The development enhances cultural, historical, educational and/or human service opportunities.**
- (4) **The utility and transportation design is adequate, given existing and planned**

capacities of those systems.

- (5) Negative impacts on adjacent land uses have been identified and satisfactorily mitigated.
- (6) There is a need or desirability within the community for the applicant's development, and the development will help achieve a balance of land use and/or housing types within the Town, according to the Town's goals.

Since no new development is proposed, there are no adverse impacts on adjacent public and private properties, and some impacts that occurred as a result of the use of the site as a waste water treatment facility will no longer occur. While the Comprehensive Plan indicates a Public designation for the site, the Comprehensive Plan did not anticipate that the Tri-Area Sanitation District would be subsumed into Saint Vrain Sanitation or that the Tri-Area Sanitation treatment site would no longer be needed. Furthermore, the proposed parcel configuration does not preclude public uses or limit opportunity for other types of development.

There are two points of entry to the site. Please note that the Town of Firestone has annexed the abandoned rail road right-of-way that abuts the western side of the development. At time of development the developer may be required to secure an access permit from the Town of Firestone across the rail road right-of-way, and / or along the eastern boundary from First Street in Firestone as applicable to the type of development proposed. However, since no new development is proposed and since there are two existing points of access into the site, no new access or rights-of-way dedications are required this time.

This Minor Subdivision application represents a combined sketch, preliminary and final plat. Recommendations added by the Planning Commission were addressed and are included in the proposed Minor Subdivision Plat. Since no development is proposed, the land use mix conforms to the Town's *Zoning District Map* and *Comprehensive Land Use Map* and the goals and policies of the Comprehensive Plan as well as criteria 4.7.4.b(3)(a-f). As noted previously, the site has two points of entry (an easement access from Colorado Boulevard as well as from North First Street located within the Firestone Retail Center). Conditions were recommended to the Planning Commission to ensure that the site meets all applicable requirements prior to development, as follows:

1. Prior to any future development a new access meeting applicable engineering requirements may be required from Colorado Boulevard.
2. Parks dedications shall be determined at the time of future development, as determined by Code requirements that exist at time of application.

Planning Commission Summary: The application was considered on January 5, 2010. No one from the public was in attendance. Acting Chairman Donna Hudziak expressed concerns for access to Lot 2 of the proposed Minor Subdivision. The Planning Commission added a third condition to the Minor Subdivision that addressed these concerns as follows:

The following plat note will be added: "A second easement or access to Lot 2 shall be required prior to the development of Lot 1, if not already in existence."

The applicant has added notes to the plat to address all of the recommended conditions of approval.

Summary: The annexation and zoning meet with the requirements for approval. Since this is a private drive and no development is proposed, a road rights-of-way dedication is not required. If warranted at the time of development, additional easement width or rights-of-way will be required, as noted in the recommended conditions of approval

To ensure compatibility at time of development, certain conditions were recommended by staff and the Planning Commission for the Minor Subdivision as noted in the text above. The applicant has revised the drawings to comply with these recommended requirements, and currently meets the criteria for approval. The proposed Annexation, Zoning and Minor Subdivision Plat represent a functional system of land use that is consistent with the rationale set forth in the Code and the policies noted within the Comprehensive Plan.

The applicant has amended the proposed drawings in accordance with the recommended conditions of approval.

LEGAL/POLITICAL CONSIDERATIONS: None noted.

ALTERNATIVES/OPTIONS:

ACTIONS: The Board of Trustees may consider the following options regarding the application:

- ☐ Approval of the request finding it is substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Denial of the request with a finding that it does not substantially achieve conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Approval of the request finding that it would be substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan if certain conditions are met;

STAFF RECOMMENDATION: Staff and the Planning Commission recommend approval to the Board of Trustees of the Annexation and Zoning as proposed.

Staff and the Planning Commission recommend approval of the Minor Subdivision subject to the following conditions:

1. Prior to any future development a new access meeting applicable engineering requirements may be required from Colorado Boulevard.
2. A second easement or access to Lot 2 shall be required prior to the development of Lot 1, if not already in existence.
3. Parks dedications shall be determined at the time of future development, in accordance with the Code requirements that exist at time of application.